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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,364	10/07/2003	Charles A. Miller	RWZ/78U	4643
26875 7590 12/28/2007 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			EXAMINER KUMAR, RAKESH	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/680,364

Applicant(s)

MILLER, CHARLES A.

Examiner

Rakesh Kumar

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-42, 57-78 and 80 is/are allowed.
- 6) ☐ Claim(s) 1-4, 6-12, 14-23, 25-30, 32-36, 43-48, 50-56, 79, 81, 82 and 84 is/are rejected.
- 7) ☒ Claim(s) 5, 13, 24, 31, 49 and 83 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

FINAL REJECTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,6-11,14,15,18-21,23,25-29,32-33,36,51,54,78 rejected under 35 U.S.C. 102(b) as being anticipated by Sylvie (FR 2761342A1).

Referring to claims 1,2,4,6-11,14,15,18-21,23,25-29,32-33,36,51,54 and 78. Sylvie discloses a carton for containing a plurality of articles comprising (Figure 8):

a plurality of walls including a bottom wall (24) spaced from a top wall (2), a pair of spaced side walls (3) and a pair of spaced end walls (18), the side (3) and end walls (18) extending between the top (2) and bottom (24) walls;

a plurality of flaps (29 and 18) extending from at least some of the walls (3 and 24), the end walls (18) being formed by combinations of the flaps (Figure 9);

a corner (upper corner; see Figure 9) of the carton formed by one of the end walls (18) and either the top wall (2) or the bottom wall (24); and

a dispenser portion for dispensing articles from the carton, the dispenser portion of the carton being defined by at least one tear line (6) formed in more than one of the

flaps (29 and 18) and at least in part from the corner (Figure 9) to define a dispenser opening for exposing an article for removal from the carton;

wherein the dispenser portion does not include either of the side walls (3) and the flap (29) extending from the bottom wall (24) is at least one of the flaps through which the tear line (30) is formed.

Further comprising a finger hole (15; Figure 7) for grasping the dispenser portion, the finger hole (15) being located opposite from the corner (Figure 9).

At least one retaining panel (9; Figure 9) adjacent the dispenser opening to retain the remaining articles in the carton.

Wherein a height of the at least one retaining panel (9; Figure 8) is over half of the height of the one end wall (full panel 18).

A pair of spaced tear (6; Figure 8) lines each extending through the one end wall (12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,12,16,17,22,30,34,35,43-48,50,52,53,55,81 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sylvie in view of Dutcher (US 4,405,078).

Referring to claims 3 and 22. Sylvie discloses all claimed limitations of claim 3 however Sylvie does not disclose the dispenser portion hingedly attached to the top wall.

Dutcher discloses an article dispenser (Figure 3) wherein the dispenser portion is hingedly attached to the top wall (76).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Sylvie to include the dispenser portion hingedly attached to the top wall of the dispenser as taught by Dutcher because it would allow a user to close the dispenser portion when the dispenser is not in use.

Referring to claims 12 and 30. Sylvie discloses all claimed limitations of claim 12 however Sylvie does not disclose a handle opening in the top wall.

Dutcher discloses an article dispenser (Figure 2) wherein a handle opening (58) is positioned on the side wall (50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Sylvie to include the dispenser comprising a handle opening as taught by Dutcher and further place the handle opening on the top wall of the dispenser of Sylvie because it would be easier to carry.

Referring to claims 16,17,34,35,52,53 and 82. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Sylvie in view of Dutcher to include tear lines extending along the juncture between the top wall and the side wall because the dispenser opening would be larger making access to the articles easier.

Referring to claims 43-48, 50, 55 and 81. See rejections above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Sylvie in view of Dutche to include the articles to be dispensed to be cylindrical articles because the dispenser would have a greater flexibility for different article dispensing.

Allowable Subject Matter

Claims 37-42, 57-78 and 80 allowed.

Claims 5, 13, 24, 31, 49 and 83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (571) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

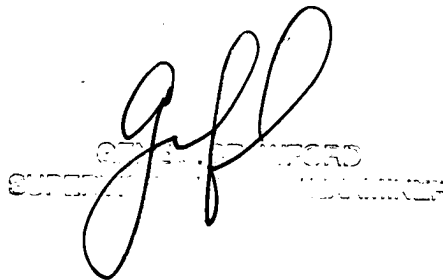
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK



A handwritten signature, possibly 'gfl', is written over a faint, rectangular official stamp. The stamp contains the text 'SUPERVISOR' and 'UNIT 1000'.